Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

Daniel R. Knapp

Petitioner

v.

Lonnie R. Cross IV

Respondent

On Petition For Writ of Certiorari
To The Georgia Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Did a hearing conducted by a Superior Court judge, whose impartiality might reasonably be questioned as an error or irregularity upon a review of the proceedings of a case, violate the petitioner's Fifth and Fourteenth Amendment due process rights provided for in the United States Constitution when the petitioner immediately raised an appeal upon discovery of continued evidence of the judge's pervasive bias and impartiality as manifested in the judge's choice of words in his written Order at the close of the hearing and as evidenced in the judge's purposeful actions after the hearing as the petitioner considered them both in combination with previous evidence of the judge's impartiality in words, actions and stated conclusions before and during the hearing and now, as petitioner considers them further with subsequent reversed and remanded hearings?

2. The petitioner now recognizes for the first time that the petitioner's ineffective counsel can be shown to have prejudiced the petitioner's defense, and the petitioner now recognizes the error and properly raises the following question in a timely manner before The Supreme Court: **Does the petitioner's ineffective counsel constitute a violation of the petitioner's Fifth Amendment due process rights provided for in the United States Constitution?**

3. The petitioner now also recognizes for the first time that the Order to permanently restrain the petitioner was effected pursuant to a code of law which appears as not applicable to the petitioner by definition, and the petitioner now recognizes the error and properly raises the following question in a timely manner before The Supreme Court: **Does the error of restraining the petitioner's liberty pursuant to a code of**

law not applicable to the petitioner constitute a violation of the petitioner's Fifth Amendment due process rights found in the United States Constitution?

PARTIES TO THE PROCEEDINGS BELOW

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OPINIONS AND ORDERS BELOW

The case appears as case number **S06C0061** with the Georgia Supreme Court. The Georgia Supreme Court's decision on 1/17/06 denying discretionary review of the petitioner's application for Petition For Writ of Certiorari is unpublished. The Georgia Supreme Court's decision on 2/13/06 denying the petitioner's Motion for Reconsideration of Petition for Writ of Certiorari is also unpublished. The Georgia Supreme Court's decision on 1/17/06 denying the respondent's Motion For Frivolous Appeal is also unpublished.

The case appears as case number **A05A1055** with the Georgia Court of Appeals. The Georgia Court of Appeals' decision on July 19, 2005 affirming the Gwinnett County Superior Court's 12/1/04 Order and 12/1/04 Permanent Restraining Order is unpublished. The Georgia Court of Appeals' decision on August 15, 2005 denying the petitioner's Motion for Reconsideration is also unpublished. The Georgia Court of Appeals decision on July 19, 2005 denying the respondent's Motion for Frivolous Appeal is also unpublished.

The case appears as case number **04-A-05249-0** with The Superior Court of Gwinnett County, Georgia. An Order and a Permanent Restraining Order were issued on 12/1/04 by The Superior Court of Gwinnett County, Georgia. A Temporary Restraining Order was first issued on 5/18/04 by The Superior Court of Gwinnett County, Georgia.

Additional appeals were submitted by the petitioner in case **04-A-05249-0** for Superior Court hearings conducted after the subject 12/1/04 hearing in question currently on petition, and those appeals appear as Georgia Court of Appeals case **A06A0119**, reversed and remanded on 5/12/06, and case **A06A0697**, also reversed on 5/12/06.

STATEMENT OF JURISDICTION

The Georgia Supreme Court's denial of petitioner's Motion For Reconsideration was entered on February 13, 2006 and the petitioner therefore files this Petition for Writ of Certiorari in accordance with Rule 11 of the U.S. Supreme Court.

U.S.C. Title 28 Section 1257 (a) provides jurisdiction to the U.S. Supreme Court in this case.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution:

Amendment V. Provides in pertinent part:
No person shall be…deprived of life, liberty or property without due process of law….

Amendment XIV. Provides in pertinent part:
…[N]or deny to any person within its jurisdiction the equal protection of the laws.

Federal Statutes:

28 U.S.C. § 455(a)
Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

U.S.C. Title 28 Section 1257 (a) Jurisdiction provided.

Official Code of Georgia Annotated:

Section 16-1-4. When Conduct Constitutes A Crime….
Section 16-3-20. Justification.
Section 16-5-90. Stalking….
Section 16-10-70. Perjury.
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Gwinnett County Code of Ordinances

Section 74-4. Disorderly Conduct.

Georgia Code of Judicial Conduct

Canon 1, Canon 2, Canon 3

STATEMENT OF THE CASE

I. Summary of Facts

Judge Mitchum who has presided in the Superior Court of Gwinnett County, Georgia has repeatedly reached conclusions in his findings that are against the weight of the evidence presented and are adverse to Mr. Knapp. Judge Mitchum has also repeatedly given the appearance of either violating rules of court, laws of the state or simply acting in an impartial manner unbecoming of the judiciary.

A. Error of Impartiality Raised In Proceedings Below

1. Superior Court:

Mr. Knapp first raised the question of Judge Mitchum's impartiality in The Superior Court on 9/15/04 in a Motion To Recuse. Judge Mitchum addressed the merits of the recusal by himself and dismissed them by stating: "This is not a grounds to recuse me, so I'm denying the motion to recuse." [1] The first error cited in the recusal involved a dispute as to Judge Mitchum's own actions and his direct involvement and was known only to him and Mr. Knapp, i.e., whether Judge Mitchum acted to have Mr. Knapp removed or arrested from a Magistrate Court on 9/1/04.

Mr. Knapp's counsel failed to raise a timely objection on Judge Mitchum's impartiality in the court on 12/1/04 because Mr. Knapp's counsel, having previously submitted a Motion To Withdraw as Counsel on 11/30/04, was largely resigned from providing assistance of counsel in raising an objection to impartiality witnessed before the court on 12/1/04.

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[1] Transcript 9/15/04 Page 11 Lines 10-11.

In addition, evidence of Judge Mitchum's pervasive bias on 12/1/04 was not, in all instances, evident during the hearing to effect an objection as some evidence of his impartiality of thought in the hearing only became evident to Mr. Knapp **after the hearing**. For example: Judge Mitchum's choice of words for the Order issued on 12/1/04 citing a public street as "petitioner's (Mr. Cross's) street" was not witnessed by Mr. Knapp until Mr. Knapp was removed from the court for incarceration.

Also for example: Only after the trial could Judge Mitchum have sought a copy of Mr. Knapp's 11/16/04 Question For Magistrate On Duty to determine if he himself, Judge Mitchum, had properly accused Mr. Knapp of deceit in the hearing or not. Well after any chance for Mr. Knapp to enter a timely objection could be entered before the court, Judge Mitchum determined if he had misjudged Mr. Knapp's honesty because Mr. Knapp had clearly disclosed to another judge the nature of subpoenaed witnesses being told "…to await further orders from the court before returning." Judge Mitchum entered a written request on the face of the same question requesting that the question be filed in Mr. Knapp's family violence file. Judge Mitchum likely then issued the Order releasing Mr. Knapp from incarceration two days early.

2. Georgia Supreme Court:

The question of Judge Mitchum's pervasive bias was then also raised by Mr. Knapp in a timely filed Petition for Writ of Certiorari of the 12/1/04 hearing with the Georgia Supreme Court enumerating "pervasive bias" as the single error to be examined on review. The Georgia Supreme Court denied Petition for Writ of Certiorari, effectively affirming the 12/1/04 trial court hearing.

3. Court of Appeals:

The question of Judge Mitchum's pervasive bias was also raised by Mr. Knapp in a timely filed appeal of the 12/1/04 hearing with the Georgia Court of Appeals enumerating "pervasive bias" as the single error to be examined on review. The Georgia Court of Appeals affirmed the 12/1/04 trial court hearing.

4. Ineffective Counsel and Inapplicable Statute

Although the petitioner has not previously raised the errors of ineffective counsel or his restraint by inappropriate selection of statute in the proceedings below, the petitioner currently raises the errors for review as the petitioner has just now become aware of the legal nature of the errors and the effect they have on petitioner's perceived legal rights. The petitioner only seeks to raise a timely appeal of the errors as the petitioner has presently become aware of them as errors.

B. Chronological Statement of Facts Follows

The following time-based sequence of events detailed in sections **1.** to **11.** appearing below outline the behaviors of Judge Mitchum that are argued in the next main section entitled **ARGUMENT** as denying the petitioner Mr. Knapp his United States Constitution Fifth Amendment due process rights in obtaining a fair trial before an impartial judge.

1. Events Leding to Initial 5/18/04 Hearing:

Mr. Cross trespassed onto Mr. Knapp's property on 9/16/03 and Mr. Cross was later arrested for those actions on 5/26/04. Mr. Cross began to harass Mr. Knapp after Mr. Knapp contacted police for assistance with Mr. Cross's behaviors on 9/16/03. Events of 9/16/03 were recorded on VHS and 8mm videotape by Mr. Knapp but they have never been witnessed in court.

Mr. Cross and guests outdoors at his home acted in a manner consistent with disorderly conduct on 5/6/04. Mr. Cross began to again harass Mr. Knapp after Mr. Knapp contacted police on 5/7/04 for assistance with Mr. Cross's and his guests' behaviors on 5/6/04. An arrest warrant hearing is currently scheduled for 5/31/06 regarding the disorderly conduct of person's in attendance at Mr. Cross's home on 5/6/04. Events of 5/6/04 were recorded on VHS videotape by Mr. Knapp but they have never been admitted in court. Although only discussed in court on 7/27/05, the events of 5/6/04 include self-admission by Mr. Cross of gambling for profit at his home. Cars regularly crowd the public street outside Mr. Knapp's home, situated beside Mr. Cross's home, approximately one or two times a week, and as recent as 5/8/06.

At the suggestion of a police officer who witnessed Mr. Knapp's physical manifestations of stress on 5/9/04 from being harassed for three days by Mr. Cross, Mr. Knapp initiated both a criminal hearing for stalking on 5/26/04 per a Criminal Arrest Warrant Application submitted on an emergency basis on 5/9/04 and civil hearing for stalking on 5/18/04 per a Petition for Relief Under Stalking Statute. **The hearing conducted on 5/18/04 is the hearing which established the involvement of a Superior Court judge whose subsequent manner before, on, and after 12/1/04 this petitioner seeks to have reviewed as inconsistent with the impartiality expected of judges who are to uphold the petitioner's due process rights provided for in the United States Constitution's Fifth Amendment.**

2. 5/18/04 Hearing In Superior Court

In the 5/18/04 hearing initiated by Mr. Knapp's submittal of a Petition For Relief Under The Stalking Statute , the Superior Court judge, Judge Robert Mitchum, presided by designation in the Superior Court. Judge Mitchum did not accept as evidence Mr. Knapp's submittal to the court of VHS tapes

from Mr. Knapp's home security system cameras obtained on 9/16/03 and on 5/6/04. Prior to the hearing, Judge Mitchum instructed both parties not to tell him the other party was lying because he already knew that to be the case. During the hearing, Judge Mitchum mocked Mr. Knapp for having constructed a "thinking diagram" which illustrated by block diagram the succession of thoughts experienced by Mr. Knapp during Mr. Cross's alleged 9/16/03 multiple trespass to Mr. Knapp's property. After issuing a Temporary Restraining Order (TRO) to Mr. Knapp restraining Mr. Knapp, Judge Mitchum did not allow any inquiry by Mr. Knapp regarding the separation distances provided for in TRO yet, given that Mr. Knapp lived directly next door to Mr. Cross, Mr. Knapp wanted clarification regarding his rights to move about freely upon his own real property.

3. 9/1/04 Questions For Magistrate On Duty

On 9/1/04, Mr. Knapp went to the Magistrate Court and inquired in writing at approximately 10:15 am about having an officer dispatched by the Magistrate to review, and possibly remove, a nearly invisible string maintained by Mr. Cross along the common property boundary between Mr. Knapp's and Mr. Cross's yard. A copy of the subject Question For Magistrate On Duty appears herein as Appendix Item TBD[2]. Mr. Knapp was confused as to his rights to affect a call to police regarding anything to do with Mr. Cross due to the TRO and therefore made his initial request at the Magistrate Court. The string had recently tripped a young child about 5 years old and injured her as she entered Mr. Knapp's yard to play with children already there at a swing set and Mrs. Knapp, a grade school teacher, had been having nightmares regarding the string. At 10:40 am, the magistrate on duty, a female judge, indicated Mr. Knapp needed to seek legal advice.

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[2] Question For Magistrate On Duty 9/1/04 10:15 AM: Appendix Item v

At 11:15 am, Mr. Knapp inquired by submitting a written question at the Clerk of Magistrate Court counter. A copy of the subject Question For Magistrate On Duty [3] appears herein as Appendix Item TBD. The question was about what form is used to procedurally go about having the 5/18/04 TRO reviewed and voided based on the fact that evidence presented in the 5/18/04 hearing was not reviewed by the court although the TRO states upon its face: "...having heard the evidence presented...." The TRO also states upon its face that either party may request the TRO be voided at any time. Mr. Knapp also felt it was appropriate to inquire about having the TRO voided because he had been subjected to increasing harassment by Mr. Cross in the interim since its issuance.

While waiting in the Magistrate Courtroom, Mr. Knapp was surprised to see Judge Mitchum appear as the prior question addressed minutes ago was addressed by a female judge, and Judge Mitchum is a male judge. Judge Mitchum was red faced and irritated by appearance from the moment he entered the room. Judge Mitchum instructed Mr. Knapp to get a lawyer and that Mr. Knapp had better gather his things and leave the court room immediately as he, Judge Mitchum, had already called the Sheriff's Deputies and Mr. Knapp would be arrested if Mr. Knapp was still in the courtroom when the Sheriff's Deputies appeared. Mr. Knapp clarified that he had a legitimate question, then gathered his belongings and immediately left the court room for fear of otherwise being arrested

4. Hearing In Superior Court on 9/15/04

On 9/15/04 Mr. Knapp was before Judge Mitchum at Mr. Knapp's submittal of a Motion For Modification to the TRO as Mr. Knapp wanted clarification as to whether Mr. Knapp was free to move about inside of his home and in his yard out

[3] Question For Magistrate On Duty 9/1/04 at 11:15 AM: App Item t

of doors if Mr. Knapp was at any time closer than the 30 foot separation distance provided for in the TRO to Mr. Cross's "residence". Mr. Knapp had suffered repeated nausea for about 24 hours prior to each cutting of his lawn under the TRO for fear of being arrested for having violated the 30 foot separation to Mr. Cross's "residence" as stipulated in the TRO[4]. Mr. Knapp had prepared a Motion To Recuse[5] Judge Mitchum on 9/15/04 as Mr. Knapp believed Judge Mitchum's physical red-faced appearance on 9/1/04 and preconceived Sheriff's Deputies response to Mr. Knapp's Question For the Magistrate On Duty was a manifestation of Judge Mitchum's increasingly apparent, and possibly deep-seated, bias against Mr. Knapp.

At the onset of the hearing, Judge Mitchum announced that there was a Motion For Contempt to be heard as one had been entered by Mr. Cross. Mr. Knapp announced he had no knowledge whatsoever of the Motion For Contempt and Mr. Knapp immediately requested a copy of it. Judge Mitchum ignored Mr. Knapp's request and proceeded to ignore Mr. Knapp's request [6] in moving directly to the Motion To Recuse, then the Motion To Modify, until eventually beginning to address the Motion For Contempt [7], but never providing Mr. Knapp a copy of the Motion For Contempt.

Judge Mitchum ruled on the Motion To Recuse by himself although one issue involved a dispute as to his own actions and his direct involvement known only to Judge Mitchum and Mr. Knapp, i.e., whether Judge Mitchum acted to have Mr. Knapp removed or arrested from the Magistrate Court on 9/1/04.

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[4] Copy of Temporary Restraining Order: Appendix Item o
[5] 9/15/04 Motion To Recuse: Appendix Item x
[6] 9/15/04 Transcript Page 5 Line 24
[7] 9/15/04 Transcript Page 19 Line 11-12

Judge Mitchum ruled that Mr. Knapp was in contempt for having "videotaped the plaintiff" without any direct evidence to that effect and against Mr. Knapp's testimony of never having observed, videotaped or recorded Mr. Cross in any manner. Mr. Knapp had left his security cameras installed on the exterior of his home in the interim from 5/18/04 as removal of the cameras was not required per the TRO issued 5/18/04.

5. Hearing In Superior Court on 9/29/04

On 9/29/04, a hearing was conducted to determine if Mr. Knapp had satisfactorily removed all security cameras from any location visible to Mr. Cross. Mr. Glenn E. Cooper entered an Apperance of Counsel to represent Mr. Knapp in court. Upon learning that Mr. Cooper was Mr. Knapp's counsel, Judge Mitchum immediately announced words to Mr. Cooper to the effect of: "Mr. Knapp has been pushing Mr. Cross's buttons and he's beginning to push mine."

6. Hearing In Superior Court on 11/10/04

On 11/10/04, a hearing was conducted in response to Mr. Knapp's filing by Mr. Copper of an Extraordinary Motion To Set Aside 5/18/04 Order and Motion To Vacate Order of 9/15/04, Or In the Alternative Motion For Reconsideration And New Trial. Completely unbeknownst to Mr. Knapp, Mr. Copper had suffered an auto accident and did not make an appearance on 11/10/04. Mr. Cooper had not communicated with Mr. Knapp at all after 10/25/04. Mr. Knapp had subpoenaed witnesses on his behalf to discuss, among other things, obscene verbal abuses in their presence of Mr. Knapp by Mr. Cross after the issuance of the 5/18/04 TRO. Judge Mitchum made sarcastic attack about Mr. Knapp's neighbors waving with one finger, their middle finger, from the back rows of the courtroom and Judge Mitchum made repeated inquiry of Mr. Knapp for having subpoenaed witnesses in his own defense. Judge Mitchum then directed all witness present, of which a few subpoenaed by Mr. Knapp were not

present, not to come back to court until further directed by the Court to do so. Judge Mitchum also made sarcastic verbal attack of Mr. Knapp directing Mr. Knapp to get a good night's sleep prior to returning to court on the now rescheduled hearing date of 12/1/04. Judge Mitchum's concerns over Mr. Knapp's adequate rest and exercise of rights to produce witnesses in Mr. Knapp's own defense are witnessed to by the handwritten notes appearing on the 11/10/04 Order Resetting Hearing contained in the Appendix herein.[8] Judge Mitchum had allowed counsel for Mr. Cross on 11/10/04 with no record of an Entry of Apperance of Counsel ever having been entered in the court case records.

7. 11/16/04 Question For Magistrate On Duty

Absent a communicative attorney, Mr. Knapp elected to ask a written question of the judge on duty in the Magistrate Court as to how to proceed in returning witnesses not present on 11/10/04, and therefore previously served but uninformed, to the courtroom on 12/1/04. The judge on duty simply directed Mr. Knapp to produce any necessary witnesses in Mr. Knapp's own defense via subpoena. Mr. Knapp then resubmitted subpoenas for those neighbors and persons he felt were necessary for his defense on 12/1/04. Mr. Knapp also asked how it was that Mr. Cross's counsel was allowed to appear on 11/10/04 without filing a Entry of Apperance of Counsel with the court.

8. D.M.V. Research Office Visit on 11/18/04

Mr. Knapp had been subject to continued obscene verbal abuse from Mr. Cross on 10/31/04 while Mr. Knapp was in the presence of Mr. Knapp's wife and youngest daughter attempting to enjoy their outdoor swing set. Mr. Knapp testified to having recorded the license plate number of a car on a public street in plain view of Mr. Knapp's home for the purpose of possibly subpoenaing the driver to court to testify

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[8] 11/10/04 Order Resetting Hearing: Appendix Item k

to Mr. Cross's continued use of obscene language in the presence of Mr. Knapp for the purpose of harassing Mr. Knapp. Mr. Knapp contacted the Department of Motor Vehicles (DMV) by telephone and they indicated to Mr. Knapp that they would need to speak with Mr. Knapp and review his concerns in person in order to consider the request for owner information regarding the license tag cited. Mr. Knapp visited DMV at their state research headquarters on 11/18/04 as they directed him to do upon his initial inquiry. The first counter-ticket stub from Mr. Knapp's visit is reproduced in the Appendix. [9] DMV politely declined Mr. Knapp's request for information in person and Mr. Knapp then politely left the DMV office. Mr. Knapp returned to DMV momentarily to obtain another counter-ticket stub so as to briefly record contact information of the employee he spoke to on 11/18/04. The second counter-ticket stub is also reproduced in the Appendix.[10]

9. Hearing In Superior Court on 12/1/04

On 11/30/04, Mr. Knapp's attorney, Mr. Glenn Cooper, entered a Motion To Withdraw as Counsel for Mr. Knapp citing differences between Mr. Knapp and Mr. Cooper. Mr. Knapp firmly believed he had the constitutional right to subpoena witnesses in his own defense. Mr. Knapp anticipated that any review of Mr. Cross's repeated obscene verbal abuse would require third-party witness, neighbors and guests of Mr. Cross, who Mr. Knapp knew to be present through recognition of their voices during Mr. Cross's repeated occasions of obscene verbal abuse of Mr. Knapp. Mr. Cooper had communicated nothing to Mr. Knapp since 10/25/04 and Mr. Knapp therefore previously anticipated Mr. Cooper would make any inquiry with Mr. Knapp on the day of the hearing, 12/1/04. Instead of discussing the need for witnesses with Mr. Knapp, Mr. Cooper simply chose to enter

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[9] DMV Counter-Ticket Stub 1: Appendix Item w

[10] DMV Counter-Ticket Stub 2: Appendix Item w

a Motion To Withdraw as Counsel at the last minute prior to the hearing. Mr. Knapp attempted to obtain another attorney and met with them with a cashier's check in hand on the morning of 12/1/04. The alternate attorney elected not to represent Mr. Knapp due to the last minute nature of the situation.

Mr. Knapp entered the courtroom scheduled for the 12/1/04 hearing. A Sheriff's Deputy, a Mr. Jeffery Lavender, was overheard by Mr. Knapp to tell Mr. Cross: "Yeah, he's going to find out what happens when you do that." It was then communicated that a separate courtroom on the second floor had been arranged to hear the case. Mr. Knapp attended the upstairs courtroom as directed.

Mr. Cooper was not in attendance. Judge Mitchum phoned Mr. Cooper and demanded he appear in court. Approximately an hour later, Mr. Cooper appeared and he joined the judge and opposing counsel in chambers. Upon their return, an unsuccessful and inconclusive hallway discussion occurred between all counsel and parties present.

Under duress of not having a previously communicative attorney and not being able to secure an attorney that morning, Mr. Knapp elected to continue with Mr. Cooper as counsel. During testimony, Mr. Cooper was confused as to the entire situation concerning admission of photographs which surrounded a 10/29/04 incident cited by Mr. Cross's counsel. The incident involved a third party, a Ms. Glenda Joiner, driving up to a stop sign near Mr. Knapp's home and making an abrupt inquiry from inside her car to Mr. Knapp standing over 70 feet away near Mr. Knapp's front porch where Mr. Knapp's twelve-year-old daughter was present throughout the entire verbal exchange while waiting for her school bus. **Ms. Glenda Joiner testified to having heard Mr. Knapp tell her that Mr. Knapp took photos of Mr. Cross's home. Mr. Knapp also testified that he never told**

the witness, Ms. Glenda Joiner, that he, Mr. Knapp, took a picture of Mr. Cross's home. Mr. Knapp also testified that he never took any photos of Mr. Cross's home at any time. Mr. Knapp's twelve-year-old daughter also testified to not having heard Mr. Knapp tell Ms. Glenda Joiner that Mr. Knapp took a picture of Mr. Cross's home.

As it would turn out later, a copy of Mr. Cooper's legal secretary's telephone call log marked "F Knapp" was found mixed in with Mr. Knapp's briefcase items. Mr. Cooper had notes provided to him by his legal secretary outlining calls made to Mr. Cooper's office where **a select few of Mr. Knapp's neighbors had called to complain about Mr. Knapp and one caller who lives near and frequents the home of Ms. Glenda Joiner had stated: "...we will all be against him (Mr. Knapp) in court...." Mr. Cooper should have used this information to attempt to discredit Ms.Glenda Joiner as a witness because Judge Mitchum later stated: "The neighbor, I can't remember her name (Ms. Glenda Joiner), the first witness with the blond hair. She didn't make up this thing about someone coming around and taking pictures....I am pretty sure she didn't make that up just to come around and harass you, to pick that as a reason to come around and harass you."** [11] **Mr. Cooper's failure to argue with the information he had at hand clearly prejudiced Mr. Knapp's defense.**

Upon reaching the conclusion of the hearing, Judge Mitchum falsely accused Mr. Knapp of **"hounding DMV for ownership information of cars"**[12] and equally falsely accused Mr. Knapp of demanding DMV to provide information with the extra-judicial accusation: **"Someone started checking on the license plates – I think Mayor Bill Campbell just about got his butt put in jail for doing the**

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[11] 12/1/04 Transcript Page 6 Lines 6-15
[12] 12/104 Transcript Page 4 Line 19-20

exact same thing for his daughter's boyfriends in his own driveway. Demanding that DMV give ownership information on cars is illegal."[13] Of course, Mr. Knapp simply asked DMV for information on the phone to which DMV suggested he visit them in person as they were, quite frankly, not sure over the phone if they could assist Mr. Knapp.

Judge Mitchum proceeded to make additional false unfounded accusations against Mr. Knapp that: **"You went to another judge and did not disclose to that other judge any of the details, got contray information, acted on that, disregarding what I told you in court in this very case. That is an irritant."**[14] Judge Mitchum's eyes were drawn narrowly together and his face was extremely red as he voiced these false accusations to Mr. Knapp of Mr. Knapp's behavior. In fact, on objective review of the question Mr. Knapp submitted to the Magistrate Court on 11/16/04, one can see that Mr. Knapp makes direct reference to the instructions for subpoenaed witnesses "to await further orders from court before returning." [15] Clearly Mr. Knapp was faulted and condemned by Judge Mitchum for being deceitful, but Mr. Knapp was simply attempting to exercise his right to produce witnesses in his own defense. Mr. Knapp even tried explaining his motives in subpoenaing the witnesses back to court but Mr. Knapp was instructed by Judge Mitchum: "Don't talk."[16].

At the close of the hearing, Mr. Knapp was incarcerated for contempt for four days immediately upon close of the hearing and required to pay $1650.00 to opposing counsel.

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[13] 12/1/04 Transcript Page 5 Lines 15-20
[14] 12/1/04 Transcript Page 7 Line 21-25 and Page 8 Line 1
[15] 11/16/04 Question For Magistrate On Duty : Appendix Item r
[16] 12/1/04 Transcript Page 8 Line 6.

Judge Mitchum cited the following for justification in assessing the $1650.00 in attorney's fees against Mr. Knapp: **"So I'm granting a permanent restraining order and $1,600.00 - - what was that, $1650.00? $1650 in attorney's fees which I think is a bargain. And that's not necessarily for the Motion for Contempt. That is for filing that motion to try to redo the whole thing after six months, subpoenaing people twice, once after I told you not to do that."**[17] Judge Mitchum's ruling was essentially sending the message that it was somehow wrong for Mr. Knapp to exercise his right to rehear a matter on an Extraordinary Motion and wrong for Mr. Knapp to subpoena witnesses in Mr. Knapp's own defense.

Also at the close of the hearing, Judge Mitchum issued a Permanent Restraining Order on 12/1/04 pursuant to Georgia Annotated §19-13-4 which relates by definition to acts between husbands and wives and children, and does not include restraint of unrelated neighbors. Judge Mitchum also issued an Order on 12/1/04 regarding contempt citing the following reasons: **"continuing to photograph the plaintiff's house. Videotaping vehicles in front of plaintiff's home. Asking DMV to run a tag numbers on a vehicles in plaintiff's street."** [18] The street erroneously referenced by Judge Mitchum as "plaintiff's street" is in fact a public street and does not belong to the plaintiff, Mr. Cross, as Judge Mitchum noted and bears witness to Judge Mitchum's impartial thought process.

Judge Mitchum issued an Order on 12/3/04 releasing Mr. Knapp from incarceration. A copy of Mr. Knapp's 11/16/04 Question For Magistrate On Duty regarding subpoenaing of witnesses appeared in the trial court file sometime after the hearing with a handwritten note in what appears as Judge

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[17] 12/1/04 Transcript Page 10 Lines 24-25 and Page 11 Lines 1-6.
[18] 12/1/04 Order : Appendix Item i

Mitchum's handwriting stating: "Please file in family violence file."[19]

10. Post 12/1/04 Hearing Initiatives by Mr. Knapp

Mr. Knapp timely filed an appeal of the 12/1/04 hearing with the Georgia Court of Appeals enumerating "pervasive bias" as the single error to be examined on review.

Mr. Knapp timely filed a Petition for Writ of Certiorari before the Georgia Supreme Court upon the Georgia Court of Appeals affirmation of the 12/1/04 ruling.

Mr. Knapp now timely files this Petition for Writ of Certiorari before the United States Supreme Court upon Mr. Knapp's Motion For Reconsideration having been denied by the Georgia Supreme Court on 2/13/06.

In this Petition for Writ of Certiorari, Mr. Knapp once again is citing the original error of pervasive bias by the trial court, Judge Mitchum, for potential review.

Mr. Knapp also is attempting to cite both ineffective counsel and application of an incorrect statute as errors for review given that both of these errors have just now been discovered by Mr. Knapp as possible violations of Mr. Knapp's rights. Mr. Knapp is therefore simply attempting to cite these two additional errors in a timely manner when becoming aware of their existence.

11. Hearings After 12/1/04 Indicate Continuing Bias

Subsequent to 12/1/04, Judge Mitchum presided over a 6/15/05 hearing rescheduled for 7/27/05, a separate 9/6/05 hearing in this same Superior Court case 04-A-05249-0.

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[19] 11/16/04 Question For Magistrate On Duty : Appendix Item r.

On 7/27/05, Judge Mitchum presided in the Superior Court on charges by Mr. Cross that Mr. Knapp was in contempt for continuing to place Mr. Cross under surveillance through a camera and personal observation and that Mr. Knapp walked on a sidewalk in front of Mr. Cross's home. Judge Mitchum ruled that Mr. Knapp was in contempt for: "re-installing a camera on his house for the purpose of placing and actually placing the petitioner under surveillance." Mr. Knapp was incarcerated for 20 days and assessed $3025.00 in opposing counsel's legal fees. Mr. Knapp appealed the 7/27/05 hearing as having been conducted without jurisdiction and having reached conclusions against the weight of the evidence presented. Mr. Knapp's appeal of the 7/27/05 hearing effected a reversal and remand to the trial court by the Georgia Court of Appeals on 5/12/06. The findings of the Court of Appeals are not yet available to Mr. Knapp for review and inclusion herein.

On 9/6/05, Mr. Knapp was brought before Judge Mitchum in Superior Court on claims by Mr. Cross that Mr. Knapp was again in contempt of court for having failed to keep a minimum distance of 10 yards to Mr. Cross and failure to pay legal fees on appeal associated with the 12/1/04 hearing under current application for review with the U.S. Supreme Court and the 7/27/05 hearing. Mr. Cross entered claims in his testimony that Mr. Knapp had attempted an attack of Mr. Cross with a deadly weapon, Mr. Knapp's lawnmower, and Mr. Cross entered photos to support his claims. Mr. Knapp denied such claims and subsequently claimed that such photos were digitally altered evidence submitted by Mr. Cross before the court. **Mr. Knapp also testified to claims of Mr. Cross's prior perjury and false swearing in Mr. Cross's original petition before the court and Mr. Knapp offered to illustrate the false nature of Mr. Cross's original Petition via review of 8mm and VHS videotapes. Mr. Knapp's claims of perjury and false swearing were rejected by Judge Mitchum.** Mr. Knapp also testified that

he believed the subject legal fees were not yet due in accordance with rules of the higher courts and the statutes of the state of Georgia. **Judge Mitchum openly mocked Rule 39 of the Georgia Court of Appeals when ordering Mr. Knapp to pay the legal fees Judge Mitchum determined as due.** Judge Mitchum concluded on 9/6/05 that Mr. Knapp "has no idea how to behave in or out of court." Judge Mitchum incarcerated Mr. Knapp for an undefined time period until legal fees were paid in full by Mr. Knapp. The 9/6/05 judgment was timely appealed by Mr. Knapp and reversed on 5/12/06 by the Georgia State Court of Appeals. The findings of the Court of Appeals are not yet available to Mr. Knapp for review and inclusion herein.

ARGUMENT

I. Summary of Argument

A. Impartiality of Judge

DANIEL KNAPP WAS DENIED DUE PROCESS WHEN THE TRIAL COURT JUDGE DID NOT ACT AS A WHOLLY DISINTERESTED AND IMPARTIAL TRIER OF FACT WHEN CONDUCTING THE 12/1/04 HEARING AND EVIDENCE OF THE JUDGE'S BIAS PERMEATES PROCEEDINGS HELD BOTH BEFORE AND AFTER THE 12/1/04 HEARING DATE CREATING THE APPEARANCE OF PERVASIVE BIAS ON BEHALF OF THE TRIAL COURT JUDGE.

1. Argument

All justices in courts of the United States are required to disqualify themselves in any proceeding in which their impartiality might reasonably be questioned in accordance with **28 U.S.C. 455 (a)**. Perhaps the central foundation to all jurisprudence in the United States of America is the premise of a fair hearing before an impartial trier of fact. The importance of this Petition for Writ therefore cannot be emphasized enough with regard to its legal merit as the foundation of justice is rooted in the principle of a fair trial.

The **Georgia Code of Judicial Conduct** officially adopted and in compliance with the United States Constitution, provides the following:

Canon 1: Judges Shall Uphold the Integrity and Independence of the Judiciary

Canon 2: Judges Shall Avoid Impropriety and The Appearance of Impropriety in All Their Activities.

A. Judges shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3: Judges Shall Perform the Duties of Judicial Office Impartially and Diligently

B. (4) Judges shall be patient, dignified and courteous to litigants....

B. (5) Judges shall perform judicial duties without bias or prejudice.

Judges must perform judicial duties impartially and fairly. Judges who manifest bias on any basis in a proceeding impair the fairness of the proceeding and bring the judiciary into disrepute.

E. (1) Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned....

One finds numerous example cases concerned with bias and prejudice exhibited by a judge in proceedings when reviewing Title 28 of the United States Code §455 (a) and Vol 48A of Corpus Juris Secundum. Besides acknowledging the basic necessity that Judges need to form opinions to arrive at a decision, the cases summarized also present the equally, and perhaps more important necessity, that Judges avoid doing so in a manner which makes fair judgment impossible and also avoid doing so in a manner that even gives the appearance of bias or prejudice, where bias

and prejudice "connote a favorable or unfavorable disposition or opinion that is somehow wrongful or inappropriate, either because it is undeserved or because it rests upon knowledge that the subject ought not to posses or because it is excessive in degree." Liteky v US, 114 Supreme Court Reporter 1147 (1994).

Other cases that are relevant and similar in their conclusion are: Wall v American Optometric Association, Inc, 379 Federal Supplement 175 (1974) in US District Court, North District Georgia which states: "Fair and impartial tribunal requires at least that the trier of fact be disinterested and that he also be free from any form of bias or predisposition regarding outcome of case, and procedure must not only be fair but very appearance of complete fairness must also be present."; and Issacs v State, 257 Georgia 126 (1987) which states that a Judge's "efforts at defending himself against a motion to recuse will inevitably create an appearance of partiality. One reason is that if he defends himself he becomes an adversary of the movant for recusal. This adversarial posture may create an antipathy which persists after the motion to recuse is denied." A more recent and widely known case addressing the appearance of impartiality is United States of America v. Microsoft Corporation, 253 F. 3d 34

Although Mr. Knapp clearly believes Judge Mitchum's impartiality can reasonably be questioned the true test of impartiality accepted in a court of law is by way of the reasonable person standard. The

appropriate inquiry regarding necessity of judicial recusal is whether a reasonable person knowing all the circumstances would question the court's impartiality.[20] Therefore, one can begin to question whether Judge Mitchum's introspective self analysis on 9/15/04 of Mr. Knapp's Motion To Recuse was sufficient justification for Judge Mitchum in not recusing himself and may represent reversible error as early as 9/15/04.

If a reasonable person now reviews all the information available regarding Mr. Knapp's 12/1/04 hearing with an objective standard of review, one can begin to question the court's impartiality:

- alleged deceit in subpoenaing witnesses back to a hearing now known to simply be recommended court procedure and a constitutionally protected legal right to produce witnesses in one's own defense;
- alleged illegal hounding of DMV similar to an extrajudicial event, known only to Judge Mitchum involving a Mayor Bill Campbell, is now known to be a simple phone call by Mr. Knapp and invitation to a research facility followed by a polite, proper and correct decision not to disclose auto ownership information;
- a positive witness to alleged statements of photography by one party preferred over negative witness by two parties when an exception to the positive witness exists as a statute of law as Georgia annotated §24-4-7 and both negative witnesses, Mr. Knapp then of 41 years and his daughter then of 12 years, are of equal, if not superior, facilities for seeing and hearing as compared to Glenda Joiner who appears to be in

[20] Selfridge v. Gynecol, Inc., D.C. Mass, 564 F.Supp. 57 (1983)

her late 50s if not early 60s and who could not recall the date or day upon which Mr. Knapp reportedly told her he took alleged photos of Mr. Cross's house which was also reported to be empty of all of Mr. Cross's family members at the time in question,

- admission by Judge Mitchum that legal fees ordered due by Mr. Knapp were in fact being enforced for Mr. Knapp having subpoenaed witnesses twice and for Mr. Knapp's entering an Extraordinary Motion before the court when in fact both actions by Mr. Knapp are completely legal and proper in a court proceeding,
- Judge Mitchum's blatant inaction on 12/1/04 of claims by Mr. Knapp that Mr. Cross had criminally trespassed across Mr. Knapp's property with an SUV, that Mr. Cross made a threat of simple assault and an additional threat of continued obscene name calling to Mr. Knapp and his family members on 9/16/03, that Mr. Cross repeatedly harasses Mr. Knapp with obscene name calling while Mr. Knapp remains under restraint with no consideration, admonishment or self-initiated motion from Judge Mitchum to hold Mr. Cross in contempt of court or under similar restraint in violation of Disorderly Conduct pursuant to Georgia Annotated §16-11-39 and County Ordinance § 74-4 for use of fighting words in the presence of another,
- witness to Judge Mitchum's impartiality of thought by citing reference to a public street shared equally by Mr. Knapp and Mr. Cross as the "plaintiff's street",
- citing Mr. Knapp's calls to DMV and videotaping of a car license plate on a public street as justification for punishment for contempt when the TRO does not limit such behavior nor does

Georgia law cite such behavior as criminal as it specifically excludes as not criminal behavior not defined in the Georgia criminal code via Georgia Annotated §16-1-4

- classifying calls to DMV, video of a license plate of a car on a street not owned or occupied by the protected party, and alleged talk of photographs of an empty house as consistent with reasonable thought of behavior associated with that defined in the Georgia Annotated § 16-5-90 Stalking statute as **"conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety",**
- categorizing Mr. Knapp as a legal family member relation to Mr. Cross per Georgia Annotated §19-13-1 to effect a restraint pursuant to Georgia Annotated § 19-13-4 although Mr. Cross is openly known by the court as simply a neighbor of Mr. Knapp.

These considerations mentioned above are sufficient to reasonably question the court impartiality in the 12/1/04 hearing. When they are combined with additional considerations cited below occurring in court proceedings on the same trial court case both before and after the 12/1/04 hearing and held out for examination under an objective standard of review, the question of Judge Mitchum's pervasive bias comes into focus

- the Georgia Court of Appeals reversal and remand of Judge Mitchum's 7/27/05 hearing where the two errors cited were lack of jurisdiction and ruling against the weight of the evidence,
- the Georgia Court of Appeals reversal of Judge Mitchum's 9/6/06 hearing where the two errors

cited where lack of jurisdiction and misconduct of court,

- exclusion by Judge Mitchum of 9/16/03 and 5/6/04 VHS videotaped evidence submitted by Mr. Knapp on 5/18/04 when Georgia Annotated §24-1-2 specifies that the objective of all legal investigation is the discovery of truth seeking the purest sources of evidence,
- Judge Mitchum's continued insistence on Mr. Knapp's residing in Mr. Knapp's home without any provision for security monitoring of Mr. Knapp's own property when in fact surveillance of one's property and any approach thereto, where there is no reasonable expectation of privacy, is provided for under Georgia Annotated §16-11-62 and Mr. Knapp has only acted in full compliance with this law yet has effectively been punished for it by having to remove security cameras from Mr. Knapp's home while the street outside Mr. Cross's home has been characterized by what would appear to be regularly scheduled gatherings while there is also self-admission of Mr. Cross's gambling for profit evidenced on VHS tape and noted in testimony on 7/27/05 by Mr. Knapp before Judge Mitchum and Mr. Knapp also testified on 9/15/04 to also having heard gunshots at 5:07am on 7/27/04 very near Mr. Knapp's home in the morning after one such gathering of cars in the street outside of Mr. Cross's home throughout the night before,
- Judge Mitchum's repeated dismissal on 7/27/05 and 9/6/05 of Mr. Knapp's claims that Mr. Knapp can demonstrate via 8mmm and VHS tapes perjury and false swearing per Georgia Annotated § 16-10-70 and 16-10-71 by Mr. Cross in his original Petition for Relief Under the Stalking

Statute submitted to the court for the 5/18/04 hearing,

- After Judge Mitchum had the occasion to review two court ordered psychological evaluations of Mr. Knapp, the most recent on 9-19-05 which reported "no symptoms or challenges that can lead to an acute diagnosis" and the earliest on 6-9-04 which offered no conclusion other than "...Mr. Knapp lacked sleep during the 5/18/04 hearing...", Judge Mitchum's commented to Mr. Knapp on 9/6/06 that: "I'm actually fed up with you. I mean, I don't – I don't know what is wrong in your head. Something is absolutely going wrong...." to which one would consider Mr. Knapp is concerned about gambling, drinking, discharge of weapons and disorderly conduct repeatedly occurring next door at Mr. Cross's residence and Mr. Knapp is therefore justified in his concerns per Georgia Annotated §16-3-20 about a Disorderly House Ga Ann §16-11-44 and Gambling Ga. Ann. §16-12-21 and he is in need of equal protection per the United States Constitution's Fourteenth Amendment.

B. Ineffective Counsel

DANIEL KNAPP WAS DENIED DUE PROCESS WHEN HIS ELECTED COUNSEL FAILED TO TIMELY OBJECT TO THE OCCURENCES OF IMPARTIALITY IN THE 12/1/04 HEARING AND WHEN HIS ELECTED COUNSEL FAILED TO USE TELEPHONE CALL LOG INFORMATION, KNOWN ONLY BY COUNSEL AT THE TIME, TO ATTEMPT TO DISCREDIT THE ONLY WITNESS TESTIFYING THAT DANIEL KNAPP TOOK PHOTOS OF RESPONDENT'S HOME ON 10/29/04.

1. The Fifth Amendment to United States Constitution provides for due process of law which includes one's right to effective representation. In tha Mr. Knapp's attorney failed to make any mention of telephone call logs, known only to counsel, where on of Mr. Knapp's neighbors had admitted that "...we will all be against him (Mr. Knapp) in court...." , Mr. Knapp's attorney prejudiced the proceedings against Mr. Knapp. Mentioning such information would hav acted to discredit the testimony of the only witness who swore that Mr. Knapp said that Mr. Knapp had taken photos of Mr. Cross's home.

C. Error In Application of Statue

DANIEL KNAPP WAS DENIED DUE PROCESS WHEN HE WAS RESTRAINED IN HIS LIBERTY PURSUANT TO GEORGIA CODE § 19-13-4 FOR FAMILY VIOLENCE NOT APPLICABLE TO DANIEL KNAPP AS DANIEL KNAPP IS NOT RELATED TO MR. CROSS IN ANY MANNER AS LEGALLY DEFINED PER GEORGIA CODE §19-13-1.

1. In consideration of Mr. Knapp being restrained on a Permanent Restraining Order pursuant to Georgia Annotated §19-13-4, a plain legal error standard of review applies. In that Georgia Annotated §19-13-4(d) states that: "A protective order issued pursuant t this Code section shall apply and shall be effective throughout this state."; and in that Georgia Annotated §19-13-4(a) states that: "The court may, upon the filing of a verified petition, grant any protective order or approve any consent agreement to bring about a cessation of acts of family violence."; and in that Georgia Annotated §19-13-1 family violence is defined as various prohibited acts occurring between past or present spouses, their children, and persons

living or formerly living in the same household. Mr. Knapp is of no relation by marriage or otherwise to the Cross family and Mr. Knapp does not currently reside, and has not formerly resided, in the same household with any member of the Cross family. Mr. Knapp's restraint, which states on its face that it is issued "...pursuant to O.C.G.A. 19-13-4..." was issued in plain legal error as it was issued pursuant to a code of law not applicable to Mr. Knapp. The Permanent Restraining Order should therefore be rendered null and void.

CONCLUSION

Daniel Knapp's hearing conducted on 12/1/04 was conducted in violation of due process rights and should be reversed.

Daniel Knapp's counsel's inaction in raising any objection to the trial court judge regarding the court's impartiality on 12/1/04 represents evidence of ineffective counsel and prejudiced Mr. Knapp's case in violation of due process rights and the hearing should therefore be reversed.

Daniel Knapp's restrain of liberty pursuant to a statute of law in the State of Georgia not applicable to Daniel Knapp represents plain legal error and is a violation of due process rights and the restraint should therefore be voided.

Respectfully Submitted, This
15th day of May, 2006,

Daniel R. Knapp, Pro Se
4310 Mulberry Ridge Lane
Hoschton, GA 30548

APPENDIX

SUPREME COURT OF GEORGIA

Case No. S06C0061 Atlanta, February 13, 200(

The Honorable Supreme Court met pursuant to adjournment. The following order was passed:

DANIEL KNAPP v. LONNIE R. CROSS, IV

Upon reconsideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

s/ Sherrie M. Welch, *Clerk*

SUPREME COURT OF GEORGIA

CLERK'S OFFICE

ATLANTA

DATE: January 17, 2006

Daniel Knapp
4310 Mulberry Ridge Lane
Hoschton GA 30548

Case No. S06C0061

DANIEL KNAPP v. LONNIE R. CROSS, IV

COURT OF APPEALS CASE NO. A05A1055

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Sherrie M. Welch, Clerk

FIRST DIVISION
ANDREWS, P. J.,
PHIPPS and MIKELL, JJ.

NOTICE: Motions for reconsideration must b physically received in our clerk's office withi ten days of the date of decision to be deemed timely filed. (Court of Appeals Rules 4 and 37. September 5, 2002)
http://www.gaappeals.us/rules

July 19, 2005

NOT TO BE OFFICIALLY REPORTED

In the Court of Appeals of Georgia

A05A1055. KNAPP v. CROSS.

MIKELL, Judge.

In this case, the following circumstances exist and ar dispositive of the appeal.

(1) The evidence supports the judgment; and

(2) No reversible error of law appears and an opinion would have no precedential value.

The judgment of the court below therefore is affirme in accordance with Court of Appeals Rule 36.

Judgment affirmed. Andrews, P. J., and Phipps, J., concur.

Court of Appeals
of the State of Georgia

ATLANTA, July 19, 2005

The Court of Appeals hereby passes the following order:

A05A1055. KNAPP v. CROSS.

Appellee Lonnie Cross requests the imposition of a frivolous appeal penalty against appellant Daniel Knapp pursuant to Court of Appeals Rule 15 (b). Said request is hereby denied.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

s/ William L. Martin, III, *Clerk.*

Date Stamped **Jul 19 2005**

e

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

LONNIE CROSS,	)	
Petitioner,	)	
v.	)	**CIVIL ACTION NUMBEI**
DANIEL KNAPP,	)	**04A-5249-0**
Defendant.	)	

ORDER

Defendant Daniel Knapp was held in willful contempt of the orders of this Court on December 1, 2004 and ordere incarcerated until December 5, 2004.

Upon the Court's own motion, the remainder of Defendant's period of incarceration is hereby suspended and he is directed to be released instanter. The remaining provisions of the Contempt Order in this case, and the various other orders in this case, are in full force and effect.

It is so ordered, this 3rd day of December, 2004.

s/ R. W. Mitchum
Robert W. Mitchum
Judge, Superior Court of
Gwinnett County
By designation

Stamped:

FILED IN OFFICE

DEC 06 2004

TOM LAWLER
CLERK SUPERIOR COURT
GWINNETT COUNTY, GEORGIA

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Lonnie R. Cross IV
Plaintiff,

vs. Civil Action No. *04A 5249-0*

Daniel Knapp__
Defendant.

PERMANENT RESTRAINING ORDER

(Handwritten:) *"Mr. Knapp dismissed his motion to rehear the case."*

The [*X*] Plaintiff [ ] Defendant filed a Motion to have the Judgment Under the Family Violence made into a Permanent Restraining Order. The matter came before the Court for a hearing. The Plaintiff [*X*] appeared [ ] failed to appear. The Defendant [*X*] appeared [ ] failed to appear. Upon consideration of the evidence and the arguments of the parties, it is hereby ordered and adjudged as follows:

[*X*] the Judgment Under the Family Violence Act issued *May 18, 2004* shall be a Permanent Restraining Order pursuant to O.C.G.A. 19-34-4. The [ ] Plaintiff [*X*] Defendant is/are hereby **ENJOINED AND RESTRAINED FROM:**

- [*X*] threatening or attempting to injure, vilify, molest, or harass the adverse party or the child(ren) of the parties, if any;
- [*X*] having any violent contact with the other party;
- [*X*] entering onto the party's:

  [*X*] residence:

[*X*] place of work:
[*X*] school:

[*X*] any contact whatsoever with the adverse part, directly, indirectly, by person, telephone, messenger, or any other means of communication. This includes, but is not limited to, the victim's home, school, place of business or routes of travel to or from those locations.

[*X*] The provisions in the Judgment under the Family Violence Act relating to all issues other than those set forth herein shall expire six (6) months from the date of the Judgment

This Permanent Restraining Order will remain in effect until further order of this Court.

The Clerk of the Superior Court shall issue a copy of this Order to the Sheriff of Gwinnett County, Georgia and to the Gwinnett County Police Department, who shall each retain a copy for so long as this Order remains in effect and shall further assist and ensure that the provisions of this Order are implemented.

[ ] the [ ] Plaintiff's [ ] Defendant's motion is denied.

So ordered, this *1* day of *December*, 200*4*.

s/ R. W. Mitchum
Judge, Superior Court
[*X*] by designation

Stamped:

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2004 DEC-2 AM 10:44
TOM LAWLER, CLERK

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Lonnie R. Cross IV,
Plaintiff,

vs. Civil Action No. 04A 5249-0

Daniel Knapp__,
Defendant.

ORDER

On *May 18, 2004*, the Court entered a Judgment Under the Family Violence Act. The [*X*] Plaintiff [ ] Defendant filed a Motion for Contempt alleging that the [*X*] Defendant [ ] Plaintiff had failed to comply with the above order.

The Court scheduled a hearing for *December 1, 2004* The Plaintiff [*X*] appeared [ ] did not appear for the hearing. The Defendant [*X*] appeared [ ] did not appear for the hearing.

The Court finds that the [ ] Plaintiff [*X*] Defendant [*X*] is [ ] is not in willful contempt of court for the following reasons: *Continuing to photograph the plaintiff's house. Videotaping vehicles in front of the plaintiff's home. Asking DMV to run a tag number on a vehicle in plaintiff's street.*

The [ ] Plaintiff [*X*] Defendant may purge himself/herself of contempt by *being incarcerated in the Gwinnett County Jail until Sunday, Dec 5, 2004 at 5 pm.*

The [ ] Plaintiff [*X*] Defendant *Daniel Knapp* is further ordered to pay to *The Sliz/McKinney Firm, P.A.* within *60* days of this order, the sum of $*1650.00* as attorney's fees for the cost of bringing this action.

If the [ ] Plaintiff [ ] Defendant fails to comply with the above order he/she shall appear before this Court on _____, 200_, at _____ __.m. in courtroom ___ to show cause why he/she should not be incarcerated for his/her contempt.

So ordered, this *1* day of *December*, 200*4*.

s/ R. W. Mitchum

Judge

Superior Court by Designation

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Lonnie R. Cross IV CIVIL ACTION FILE NO.

Plaintiff/Petitioner 04A 5249-0

v. Any prior case no(s):

Daniel Knapp

Defendant/Respondent

ORDER RESETTING HEARING UNDER THE FAMILY VIOLENCE ACT AND CONTINUING TEMPORARY PROTECTIVE ORDER

The Petition in the above case was filed on *May 11*, 2004, and a Temporary Protective Order was issued on that date. A hearing has been set for *10 November*, 2004.

[*X*] The hearing is continued upon the request of the [ ] Plaintiff [*X*] Defendant*'s (Kapp's) Lawyer* [ ] both parties.

[*X*] The [*X*] Plaintiff *(Cross)* [ ] Defendant has *NOT* consented to the continuance.

[ ] The [ ] Plaintiff [ ] Defendant has not consented to the continuance. The Court finds that the case should be continued for a good cause.

[ ] The Defendant has not been served with the Temporary Protective order and notice of the hearing. It is therefore ordered that the hearing be reset to *December 1*, 2004 at *1:30 p.*m. in Courtroom *1D* of the Gwinnett County Justice and Administration Center, 75 Langley Drive, Lawrenceville, GA 30045. The provisions to the Temporary Protective Order are

continued in effect until the reset hearing and the Defendant shall also be served with a copy of this order.

So ordered, this *10* day of *November*, 2004.

(Judge's Notation:)

***"9 NEIGHBORS HAVE BEEN SUBPOENAED!** They do not have to appear until further order of the Court."*

s/ R. W. Mitchum
Judge, Superior Court
[*X*] by designation

Consented to:

_____

(Judge's Notation:) *"Mr. Knapp is ordered to get a good night's sleep before any court date.*

"The restraining order in this case shall stay in full force and effect until the pending motions can be heard."

Stamped:

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2004 NOV 10 PM 2:16
TOM LAWLER, CLERK

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

Lonnie R. Cross IV
Plaintiff,

vs. Civil Action No. 04A 5249-0

Daniel Knapp
Defendant.

ORDER CONCERNING MOTION FOR CONTEMPT
(Handwritten Judge's insertion:) *"MOTION TO RECUSE, MOTION TO MODIFY, AND MOTION TO MAKE THE ORDER PERMANENT"* **-FAMILY VIOLENCE**

On *May 18, 2004*, the Court entered a Judgment Under the Family Violence Act. The [*X*] Plaintiff [ ] Defendant filed a Motion for Contempt alleging that the [*X*] Defendant [ ] Plaintiff had failed to comply with the above order. The Court scheduled a hearing for *15 September 2004*. The Plaintiff [*X*] appeared [ ] did not appear for the hearing. The Defendant [*X*] appeared [ ] did not appear for the hearing.

(Handwritten Judge's insertion:)
"(1) Motion to Recuse is denied
(2) Motion for a permanent order will be heard on Sept 29, 2004."

[*X*] **Findings:** The Court finds that the [ ] Plaintiff [*X*] Defendant [*X*] is [ ] is not; in willfull contempt of court for the following reasons: *By videotaping the plaintiff.*

The [ ] Plaintiff [*X*] Defendant may purge himself/herself of contempt by: *(1) Removing all cameras from any location that is visible to Plaintiff. This must be done within 48 hours. (2) The distance of separation in the 5-18-04 restraining order is modified to read 'however, Respondent may have full use of his home and the surrounding real property that belongs to Mr. Knapp.'"*

The [ ] Plaintiff [ ] Defendant is further ordered to pay to _____, within __ days of this order, the sum of $___ as attorney's fees for the cost of bringing this action.

Return Date: ~~If the [ ] Plaintiff [ ] Defendant fails to comply with the above order he/she~~ (Handwritten Judge's insertion:) *"Both parties"* shall appear before this Court on *29 September*, 2004, at *1:30 p.*m. in courtroom *1D* to show cause why he/she should not be incarcerated for his/her contempt. So ordered, this *15* day of *September*, 2004.

s/R. W. Mitchum

Judge, Superior Court [*X*] by designation

Stamped: **FILED IN OFFICE**
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2004 SEP 15 PM 4:32
TOM LAWLER, CLERK

o

In pertinent Form: **ORI NUMBER:**_____

IN THE SUPERIOR COURT OF
GWINNETT COUNTY
STATE OF GEORGIA

LONNIE R. CROSS IV		***Civil Action File No:***
Petitioner	*	*04A 5249-0*
v.	*	
DANIEL KNAPP	*	
Respondent	*	

STALKING SIX MONTH PROTECTIVE ORDER

A hearing was held on this matter on *18 May*, 20*04*, for which the Respondent had notice as required by law and at which the Respondent appeared and/or had the opportunity to be heard and Petitioner requested that the Protective Order entered in this case be continued. Having heard the evidence presented, reviewed the petition and entire record concerning this case and for good cause shown, **IT IS HEREBY ORDERED AND ADJUDGED THAT:**

1. [pco01] [pco02] Repondent has knowingly and willfully violated O.C.G.A. 16-5-90 et.seq., and placed the Petitioner in reasonable fear for the Petitioner's safety. Responden is hereby enjoined and restrained from doing or attempting to do, or threatening to do nay act constituting a violation of O.C.G.A. 16-5-90 et.seq., and of harassing, interfering or intimidating the Petitioner or Petitioner's immediate family. In addition, Respondent is SPECIFICALLY hereby enjoined and restrained from

[*X*] following; [*X*] placing under surveillance; [*X*] contacting; [ ] other;_____

Petitioner in violation of O.C.G.A. 16-5-90 et.seq., and that any future acts committed by the Respondent towards petitioner which are in violation of this statute and this Protective Order can amount to AGGRAVATED STALKING, pursuant to O.C.G.A. 16-5-91, which is a felony. A person convicted of Aggravated Stalking shall be punished by imprisonment for not less that one nor more than ten years and by a fine of not more than $10,000.00.

Respndent is enjoined from approaching within *10* yards of Petitioner; (Check applicable) and from [*X*] Petitioner's immediate family; Petitioner's [*X*] residence; [*X*] place of employment; [*X*] school.

[pco04]

(Handwritten Judge's note:) *"Respondent may not look at the petitioner or his family, videotape the petitioner, or record the petitioner or his family."*

Respondent shall have no contact of any type, direct or indirect, or through another person, with the Petitioner or the immediate family of the Petitioner, including but not limited to telephone, pager, fax, e-mail, mail, or any other means of communication. Furthermore, Respondent shall not follow Petitioner or place the Petitioner under surveillance.

[pco05]

5. This Order shall be in effect six (6) months from this date until *November 18, 2004*.

6. ONLY THE FOLLOWING PROVISIONS APPLY THAT ARE INITIALED BY THE JUDGE

8. Respondent is to receive appropriate psychiatric or psychological services as follows:

s/ R.W.M. *Respondent must obtain a mental health evaluation at his expense within 30 days and provide a copy of such report to the Court.*

SO ORDERED, this *18* day of *May*, 20*04* at *1540* .M.

s/R. W. Mitchum

Judge, Gwinnett Superior Court [*X*] by designation

Print name: *Mitchum*

Notice to Respondent

2. This Order shall remain in effect unless specifically superceded by a subsequent signed and filed Order, by operation of law, or by Order of Dismissal, whichever occurs first. Only this Court can void, modify, or dismiss this Order. Either party may ask, in writing, o during any hearing, that this Court change or dismiss thi Order.

[*X*] Transmitted to Georgia Protective Order Registry:	Date Submitted by Deputy Clerk:

By: s/R. M. Baggett, Deputy Clerk *5.19.04*

Stamped:FILED IN OFFICE,**CLERK SUPERIOR COURT**

GWINNETT COUNTY, GA, 2004 MAY 18 PM 3:51
TOM LAWLER, CLERK

r

I HAVE A PROCEDURAL QUESTION FOR THE MAGISTRATE ON DUTY

Date *11/6/04* **(Actual Date: 11/16/04)** Time Heard

My name and daytime telephone number(s) are:
DANIEL KNAPP
770.932.8072

(Note with appearance of Judge Mitchum's handwriting:)

"Please file in family violence file."

My speaking to the magistrate relates to:
...
[*X*] **Other**

My procedural question is:
A 11/15/04 HEARING WAS RESET TO 12/1/04 WITH SPECIFIC DIRECTIVE TO SUBPEONAED WITNESSES TO AWAIT FURTHER ORDERS FROM COURT BEFORE RETURNING. HOW CAN I SUBPEONA OR RESET SUBPEONA FOR WITNESSES NOT SUCCESSFULLY SUBPEONAED ON 11/5/04?

Judge's Comments: ...

[*X*] **Other/Response:** ***Can serve sub. via sheriff.***

Signature of Judge hearing matter: **s/ Mark Lewis**
11/15/04

I HAVE A PROCEDURAL QUESTION FOR THE MAGISTRATE ON DUTY

Date ***11/16/04*** **Time** **Time Heard**

My name and daytime telephone number(s) are:

DANIEL KNAPP

770.932.8072

My speaking to the magistrate relates to:

[*X*] **Other**

My procedural question is:

WHAT RULES OF PROCEDURE APPLY FOR FAMILY VIOLENCE MATTERS IN GWINNETT SUPERIOR COURT?

CAN AN ATTORNEY FOR AN OPPOSING PARTY NEGOTIATE BEFORE THE COURT W/O ENTRY OF APPEARANCE?

Signature of Judge hearing matter: **s/ Mark Lewis**
11/15/04

t

I HAVE A PROCEDURAL QUESTION FOR THE MAGISTRATE ON DUTY

Date ***9/1/04*** **Time** ***11:15 AM*** **Time Heard**

My name and daytime telephone number(s) are:
DANIEL KNAPP
770.932.8072

My speaking to the magistrate relates to: (check as applicable and write out question(s)):

[*X*] Procedures for other Mag.Ct.matters [*X*] Other

My procedural question is:

WHAT FORM CAN I USE TO REQUEST COURT ORDER 04-A-5249-0 (STALKING SIX MONTH P.O.) BE REVIEWED AND VOIDED BASED ON THE FACT EVIDENCE PRESENTED AT HEARING (I.E., VIDEOTAPE OF PETITIONER THREATENING CONTINUED VERBAL ABUSE... (Continued)

Judge's Comments:

[*X*] **Seek advice from private attorney of their choosing**

Signature of Judge hearing matter: **s/ R. W. Mitchum**

Stamped:
FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2006 JAN 20 PM 2:29
TOM LAWLER, CLERK

PAGE 2 CONTINUATION OF 9/1/04 11:15 AM "I HAVE A PROCEDURAL QUESTION FOR THE MAGISTRATE ON DUTY"

...AND SEPARATE VIDEOTAPE OF PETITIONER USING VERBAL ABUSE) WERE NOT REVIEWED BY COURT ALTHOUGH THEY WERE MADE AVAILABLE TO THE COURT BY RESPONENT? THE ORDER STATES "HAVING HEARD THE EVIDENCE PRESENTED..." BUT THAT IS NOT A TRUE CONDTION FOR THE ORDER TO BE ISSUED. THE CONTENT OF THE VIDEOTAPES, ALTHOUGH NOT TRANSCRIBED FOR THE HEARING, IS NOW AVAILABLE FOR REVIEW IN FULL TEXT FORM.

I HAVE A PROCEDURAL QUESTION FOR THE MAGISTRATE ON DUTY

Date *9/1/04* **Time *10:15 AM*** **Time Heard *10:40 AM***
My name and daytime telephone number(s) are:
DANIEL KNAPP
770.932.8072

My speaking to the magistrate relates to:

[*X*] Procedures for other Mag. Ct. matters [*X*] Other

My procedural question is:

CAN A JUDGE REQUEST A POLICE OFFICER BE DISPATCHED TO MY HOME TO REMEDY A POSSIBLE THREAT TO MY CHILDREN'S SAFETY W.R.T. A POSSIBLE TRIPWIRE CONSTRUCTED ALONG MY PROPERTY LINE WHICH HAS TRIPPED A 5 YR OLD CHILD?

Judge's Comments: (check as applicable and write out your response:)
[*X*] Seek advice from private attorney of their choosing
Signature of Judge hearing matter: s/ J.C. (illegible)

Counter Ticket:

(Handwritten Note:)
"404.362.6489 Edwards"
Welcome
Motor Vehicle Services
Tradeport

E408
Research
11:28am 11-18-04 2461

Counter Ticket:

Welcome
Motor Vehicle Services
Tradeport

E407
Research
11:02am 11-18-04 2495

MOTION TO RECUSE Judge Mitchum

1- PREJUDGEMENT: On my 9/1/2004 most recent appearance before your Honor, Judge Mitchum, when submitting a procedural question to the Magistrate on duty, upon Judge Mitchum's immediate arrival in the courtroom the first thing he told me was to "get a lawyer" and that he had *already* requested the Sheriff appear at the courtroom to arrest me.

2- BIAS IN ADMITTING COURTROOM EVIDENCE: On my 5/18/2004 prior appearance before your Honor, Judge Mitchum, I attempted to submit as evidence home security videotape recordings which illustrated the petitioner here today, Lonnie Cross IV, using verbal abuse toward me while at the same time Lonnie Cross IV threatened continued verbal abuse toward me and my family in the future, these videotapes were at the time rejected by your Honor, Judge Mitchum, without explanation and ultimately, in my opinion, had a significant and erroneous effect on the 5/18/04 decision. I elected not to formally appeal the 5/18/04 decision out of initial deference to your Honor, Judge Mitchum's, decision and so as to avoid increased litigation, escalation and prolongation of this case. Continued harassment and intimidation, in my opinion, committed on behalf of the Petitioner, Lonnie Cross IV, since 5/18/2004 toward Respondent, Daniel Knapp, and Respondent's family has necessitated my return to the court at this time for modification of the existing 5/18/2004 decision.

3 CRUELTY: I was told…I had to leave…. I believe …the 5/18/2004 decision (is)…a form of cruel and unusual punishment by effectively confining me to a limited portion of my home and precluding me from leaving my home with sufficient knowledge as to where I am restricted from traveling …I…believe I need to know, within a reasonable limit of distance, where I should not go if (Petitioner and Petitioner's family's) place of employment and schools are a condition of the decision. s/Daniel R. Knapp 9/15/04

Stamped:T Lawler Clerk Superior Court at 9/15/04 12:57 PM

Section 16-1-4. When conduct constitutes a crime; power of court to punish contempt or enforce orders, civil judgments, and decrees. Provides in pertinent part:
No conduct constitutes a crime unless it is described as a crime in this title or in another statute of this state.

Section 16-3-20. Justification. Provides in pertinent part:
The fact that a person's conduct is justified is a defense to prosecution for any crime based on that conduct. The defense of justification can be claimed...(4) When the person's conduct is reasonable and is performed in the course of making a lawful arrest; (5) When the person's conduct is justified for any other reason under the laws of this state; (6) In all other instances which stand upon the same footing of reason and justice as those enumerated in this article.

Section 16-5-90. Stalking; psychological evaluation.
Provides in pertinent part:
A person commits the offense of stalking when he or she follows, places under surveillance or contacts another person...for the purpose of harassing and intimidating the other person.... For the purposes of this article, the term "harassing and intimidating" means a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety ...and which serves no legitimate purpose.

Section 16-10-70. Perjury. Provides in pertinent part:
(a) A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue or point in question.

Section 16-10-71. False Swearing. Provides in pertinent part:
(a) A person…who executes a document knowing that it purports to be an acknowledgement of a lawful oath…commits the offense of false swearing when…he knowingly and willfully makes a false statement.

Section 16-11-39. Disorderly Conduct. Provides in pertinent part:
(a) A person commits the offense of disorderly conduct when such person commits any of the following…(3) Without provocation, uses to or of another person in such other person's presence…words commonly called "fighting words"…(c) This Code section shall not …limit the powers of counties…to adopt ordinances…prohibiting disorderly conduct within their respective limits.

Section 16-11-44. Maintaining a disorderly house. Provides in pertinent part:
A person who keeps and maintains…a house, to the encouragement of gaming, drinking or other misbehavior, or to the common disturbance of the neighborhood or orderly citizens is guilty of a misdemeanor.

Section 16-11-62. Eavesdropping, surveillance, or intercepting communication which invades privacy of another; divulging private message. Provides in pertinent part:
It shall be unlawful for…(2) Any person …to record the activities of another which occur in any private place and out of public view; provided that it shall not be unlawful…(B) For an owner or occupier of real property to use for security purposes, crime prevention or crime detection any device to…record the activities of persons who are on the property or an approach thereto in areas where there is no reasonable expectation of privacy….

Section 16-12-21. Gambling. Provides in pertinent part:
A person commits the offense of gambling when he…plays and bets for money or other thing of value at any game played with cards, dice or balls.

Section 19-13-1. "Family violence" defined. Provides in pertinent part:
As used in this article, the term "family violence" means an occurrence of one or more of the following acts between past and present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household….

Section 24-1-2: Object of rules of evidence. Provides:
The object of all legal investigation is the discovery of truth. The rules of evidence are framed with a view to this prominent end, seeking always for pure sources and the highest evidence.

Section 24-4-7. Positive testimony preferred over negative testimony; exception. Provides:
The existence of a fact testified to by one positive witness is to be believed, rather than that such fact did not exist because many other witnesses who had the same opportunity of observation swear that they did not see or know of its having existed. This rule shall not apply when two parties have equal facilities for seeing and hearing a thing and one swears that it occurred while the other swears that it did not.

Gwinnett County Code of Ordinances
Section 74-4. Disorderly Conduct. Provides in pertinent part:
(a) Purpose: The purpose of this section is to preserve the peace and tranquility when it is endangered by the irresponsible actions of a person or persons…(c) Prohibited acts…(2) No person shall engage in any noisy, boisterous or

unruly conduct that disturbs or infringes upon the peace of another, particularly at an hour or time which is not common for such activity...(11) No person shall...use...in such other person's presence...fighting words.

Georgia Code of Judicial Conduct provides in pertinent part:

CANON 1

Judges Shall Uphold the Integrity and Independence of the Judiciary.

An independent and honorable judiciary is indispensable to justice in our society. Judges shall participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe such standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

CANON 2

Judges Shall Avoid Impropriety and the Appearance of Impropriety in All Their Activities.

A. Judges shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Commentary: Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. Judges must avoid all impropriety and appearance of impropriety. Judges must expect to be the subject of constant public scrutiny. Judges must therefore accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen, and they should do so freely and willingly.

CANON 3

Judges Shall Perform the Duties of Judicial Office Impartially and Diligently.

A. Judicial Duties in General. The judicial duties of judges take precedence over all their other activities. Their judicial duties include all the duties of their office prescribed by law*. In the performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

(4) Judges shall be patient, dignified, and courteous to litigants....

(5) Judges shall perform judicial duties without bias or prejudice. Judges shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice....

Judges must perform judicial duties impartially and fairly. Judges who manifest bias on any basis in a proceeding impair the fairness of the proceeding and bring the judiciary into disrepute. Facial expression, body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. Judges must be alert to avoid behavior that may be perceived as prejudicial.

E. Disqualification.

(1) Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

Commentary: Under this rule, judges are subject to disqualification whenever their impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply.

Transcipts

September 15, 2004

Pg 5 Line 24
Mr. Knapp: I'd like to have a copy of it, I guess.

Pg 11 Line 10-11
The Court: This is not grounds to recuse me, so I'm denying the motion to recuse.

Pg 19 Line 11 12
The Court: So Let's go to the next issue. Your motion for contempt is what?

December 1, 2004

Pg 4 Line 1920
The Court: But, I think, when you start hounding DMV for ownership information of cars....

Pg 5 Line 15-20
The Court: Someone started checking on the license plates - - I think Mayor Bill Campbell just about got his butt put in jail for doing the exact same thing for his daughter's boyfriends in his own driveway. Demanding that DMV give him ownership information on cars is illegal.

Pg 6 Line 6-15
The Court: The neighbor, I can't remember her name, the first witness with the blond hair. She

didn't make up this thing about someone coming around and taking pictures, and then drive around just to harass you because she wanted to make up a reason to drive around and harass Mr. Knapp and drive up in his driveway and say, who are you? Do you live here? No. I am pretty sure she didn't make that up just to come around and harass you, to pick that as a reason to come around and harass you.

Pg 7 Line 2425 and Page 8 Line 1
The Court: You went to another judge and did not disclose to that other judge any of the details, got contrary information, acted on that, disregarding what I told you in court in this very case. That is an irritant.

Pg 8 Line 6
The Court: Don't talk.

Pg 10 Line 24-25 and Pg 11 Line 1-6
The Court: So I'm granting a permanent restraining order and $1600.00 - - what was that, $1,650.00? $1650.00 in attorney's fees which I think is a baragin. And that's not necessarily for the Motion for Contempt. That is for filing that motion to try to redo the whole thing after six months, subpoenaing people twice, once after I told you not to do that.